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Alex Umansky

January 23, 2012

VIA ECF

Honorable Ramon E. Reyes, Jr.
United States Magistrate Judge
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: **Anna Stanczyk v. City of New York, et al.**
11 CV 249 (FB) (RER)

Your Honor:

I represent plaintiff Anna Stanczyk in the above referenced civil rights action brought pursuant to 42 U.S.C. § 1983. Pursuant to Local Civil Rule 37.3 and Fed. R. Civ. P. 37(b), I write now to respectfully request that the Court issue an Order to compel defendants to provide outstanding discovery and to produce P.O. Shaun Grossweiler for a deposition in the above-referenced matter.

On August 5, 2011, plaintiff requested that defendants remedy all deficiencies in their responses to plaintiff's First Set of Interrogatories and Document Requests. See Exhibit A. Specifically, plaintiff requested the following outstanding discovery from defendants: 1) IAB Audio Tapes of P.O. Shaun Grossweiler, 2) IAB Audio Tapes of P.O. Richard DeMartion, 3) Complete CCRB file for the subject incident, and 4) Complete Personnel file for P.O. Shaun Grossweiler. Id. Despite repeated promises and assurances from defendants, as well as multiple extensions granted by plaintiff, defendants failed to respond to plaintiff's supplemental demands. On December 20, 2011, plaintiff sent a letter to defense counsel, Victor M. Tello, requesting compliance with all outstanding discovery. See Exhibit B. Having received no response, on January 4, 2012, plaintiff wrote again to defendants requesting that defendants provide plaintiff

with outstanding discovery. See Exhibit C. Lastly, more than *five months* after plaintiff's supplemental demands were first served, defendants City of New York and P.O.'s Grossweiler and DeMartino have yet to respond to plaintiff's demands.

Indeed, defendants have exhibited a cavalier disregard for their discovery obligations under the Federal Rules. These demands were served back in August 2011. It is now almost the end of January of the *following year*, and plaintiff *still* does not have *any* of the supplemental documents which were requested and to which she is clearly entitled. Moreover, it defies logic and common sense that it would take *over five months* to find the disciplinary records and personnel file of a single police officer. It is apparent that little, if any, effort was ever made to find these records in a timely manner.

Further, to date, the parties have conducted the depositions of plaintiff Anna Stanczyk on December 12, 2011 and defendant P.O. DeMartino on December 14, 2011. Both parties scheduled a deposition of defendant P.O. Grossweiler to take place on December 16, 2011. However, on December 15, 2011, *one day* prior to the scheduled deposition of P.O. Grossweiler, defense counsel Victor M. Tello informed plaintiff that defendants will not produce P.O. Grossweiler. Moreover, despite plaintiff's repeated requests to schedule the deposition of P.O. Grossweiler, defendants have wholly ignored plaintiff's requests.¹

Based on the foregoing, it is respectfully requested that, pursuant to Fed. R. Civ. P. 37(b)(2)(B), the Court issue an order directing defendants City of New York, P.O. Grossweiler and P.O. DeMartino to produce: 1) IAB Audio Tapes of P.O. Shaun Grossweiler, 2) IAB Audio Tapes of P.O. Richard DeMartino, 3) Complete CCRB file for the subject incident, 4) Complete Personnel file for P.O. Shaun Grossweiler, and 5) P.O. Grossweiler for a deposition.

I thank Your Honor for consideration of this request.

Respectfully submitted,

/s/

Jon L. Norinsberg

cc: Victor M. Tello, Esq.
Baree N. Fett, Esq.
Assistant Corporation Counsel
Special Federal Litigation Division
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¹ During the telephone conference held on December 20, 2011, your Honor expressly rejected defendants' request to stay discovery and further postpone P.O. Grossweiler's deposition. In fact, your Honor granted plaintiff's First Motion to Compel defendants to produce P.O. Shaun Grossweiler for a deposition.